

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS F. BANGASSER, an
individual, and derivatively on behalf
of Nominal Defendants MIDTOWN
LIMITED PARTNERSHIP and
MIDTOWN COMMUNITY LAND
TRUST,

Plaintiffs,

v.

HUGH F. BANGASSER, et al.,

Defendants,

CASE NO. C19-66 RAJ

ORDER

This matter comes before the Court *sua sponte*, and on this Court's Order dismissing Plaintiff's Complaint with leave to amend. Dkt. # 21. For the reasons set forth below, the Court **DISMISSES** Plaintiff's Amended Complaint without prejudice.

I. DISCUSSION

In January 2019, Plaintiff, on behalf of himself and "on behalf of nominal defendants," filed this lawsuit against his brothers and various attorneys associated with his long-running legal battle. Dkt. # 1. Defendants moved to dismiss for lack of subject

1 matter jurisdiction, and the Court granted Defendants’ motion. Dkt. # 21. The Court
2 gave Plaintiff a chance to amend to amend his Complaint to allege a proper basis for
3 subject matter jurisdiction. *Id.* at 4-5. The Court warned Plaintiff that if he failed to
4 adequately allege a basis for subject matter jurisdiction, this Court would “dismiss this
5 action with prejudice either *sua sponte* or by motion.” *Id.*

6 On June 21, 2019, Plaintiff filed his “Amended and Supplemental Complaint
7 Addressing the Jurisdiction Issue and Request to Join Additional Necessary Parties.”
8 Dkt. # 22. In this pleading, Plaintiff also seeks to join four additional defendants: the
9 American Bar Association, the Washington Bar Association, the King County Bar
10 Association, and Judge Theresa B. Doyle. *Id.* at ¶ 2. Despite the indications of the title,
11 this amended pleading still fails to allege a proper basis for subject matter jurisdiction.
12 Diversity jurisdiction is still lacking, and the only potential reference to any federal law is
13 Plaintiff’s odd allegation that Defendants paid themselves legal fees “in violation of
14 Plaintiff’s rights under the 8th Amendment of the Bill of Rights.” *Id.* at ¶ 4. Plaintiff
15 fails to show how this alleged Eighth Amendment violation applies to any of the breach
16 of contract or fiduciary duty claims alluded to in his previous filings. Plaintiff also does
17 not explain how this claim applies to Defendants, who are all non-governmental actors,
18 and how he can claim Eighth Amendment violations when he has seemingly not been
19 convicted of a crime. *See Ingraham v. Wright*, 430 U.S. 651, 668–69 (1977) (“Eighth
20 Amendment scrutiny is appropriate only after the State has complied with the
21 constitutional guarantees traditionally associated with criminal prosecutions.”); *Shah v.*
22 *County of Los Angeles*, 797 F.2d 743, 745 n.1 (9th Cir. 1986) (“The Supreme Court has
23 held that the eighth amendment protects only those who have been convicted of a
24 crime.”). This vague reference is thus not a proper basis for subject matter jurisdiction.

25 The Court thus finds, again, that Plaintiff’s Complaint should be dismissed for
26 lack of subject matter jurisdiction. Additionally, Plaintiff has failed to comply with
27 Federal Rule of Civil Procedure 8. To comply with Rule 8, Plaintiff must plead a short

1 and plain statement of the elements of his claim, “identifying the transaction or
2 occurrence giving rise to the claim and the elements of a prima facie case.” *Bautista v.*
3 *Los Angeles County*, 216 F.3d 837, 840 (9th Cir. 2000). Accordingly, Plaintiff must set
4 forth “who is being sued, for what relief, and on what theory, with enough detail to guide
5 discovery.” *McHenry v. Penne*, 84 F.3d 1172, 1179-80 (9th Cir. 1996). Plaintiff’s
6 Amended Pleading fails to do so, as the Court has great difficulty determining what
7 cognizable claims, if any, Plaintiff asserts against Defendants.

8 Although Plaintiff is proceeding pro se, given his inability to successfully state a
9 claim or any proper jurisdictional basis, and his multiple failed attempts to assert such
10 claims in other litigations, the Court will **DISMISS** his Amended Complaint. Although it
11 is a close call, the Court will do so **WITHOUT PREJUDICE**. See *Frigard v. United*
12 *States*, 862 F.2d 201, 204 (9th Cir. 1988) (“Ordinarily, a case dismissed for lack of
13 subject matter jurisdiction should be dismissed without prejudice so that a plaintiff may
14 reassert his claims in a competent court.”).

15 II. CONCLUSION

16 For the foregoing reasons, the Court **DISMISSES** this matter without prejudice.

17 Dated this 28th day of June, 2019.

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21 The Honorable Richard A. Jones
22 United States District Judge
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